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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/663,601 | 09/16/2003 | Craig Zadak | 502255 | 3295 |

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EXAMINER

BOSWELL, CHRISTOPHER J

| ART UNIT | PAPER NUMBER |
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3676

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,601

Applicant(s)

ZADAK ET AL.

Examiner

Christopher Boswell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-25 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,474,478 to Huehner et al.

Huehner discloses a lock bar system having a frame (220) attached to a support (12), the frame includes a peg hook support rear security rod (224) and a peg hook support bar (226), a product retainer (264) hingedly connected to the frame, the product retainer includes a lower security rod (62) and an upper security bar (60), and a lock mechanism (282) coupled to the product retainer, as in claim 1, as well as a plurality of peg hooks (figure 14) secured to the lock bar system, as in claim 2, and where the frame is mounted to a merchandising display by means of mounting brackets (52), the mounting brackets configured to receive the frame through

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apertures (figure 16) for cantilevered support, as in claim 3, wherein the lock mechanism is a keyed lock (column 4, lines 46-53), as in claim 4, and the upper security bar includes a label holder and labels (66) for identifying product suspended on the peg hook, as in claim 5.

Huehner also discloses a lock bar system in a merchandising display having a peg hook support frame (220) mounted to the merchandising display supporting a plurality of peg hooks (figure 14) in lateral spaced relation, the peg hooks including forward extending rods (figure 14) for supporting retail product, the peg hook support frame supporting a movable product retainer (264) extending across forward ends of the plurality of peg hooks, the product retainer subject to a lock (282) having a locked condition preventing removal of product from the peg hooks and an unlocked condition permitting removal of product from the peg hooks, as in claim 6.

Huehner further discloses the movable product retainer is hingedly connected (figures 25 and 30) to the peg hook support frame, as in claim 7, as well as the peg hook support frame having a peg hook support bar (224) extending laterally between mounting brackets, and a peg hook retaining rod (226) spaced vertically from the peg hook support bar, as in claim 8, wherein the peg hook support bar includes a bar (230) configured to hold peg hook backs, and the retaining rod is spaced to prevent removal of peg hook backs except via an entrance cavity (238) formed at an end of the retaining rod, the cavity allowing upward movement of a peg hook back (column 5, lines 40-60), as in claim 9, and the movable product retainer having an upper security bar (60) and a lower security rod (62), the upper security bar including a retainer bar (66) configured to hold one or more label holders, as in claim 10.

Huehner additionally discloses a lock bar system for securing product in a merchandising display with a vertical support (12) including at least a pair of mounting brackets (52), a peg

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hook support bar (226) extending laterally between the mounting brackets, a peg hook rod (224) extending laterally between the mounting brackets in vertical space relation to the peg hook support bar, the peg hook rod capable of preventing removal of a plurality of peg hooks (figure 14) supported by the support bar, a product retaining structure (264) supported by the mounting brackets in space relation to the peg hook support bar proximate a forward end of the peg hooks, the product retaining structure configured to receive one or more label holders (66) for product identification, and a lock mechanism (282) having locked and unlocked modes, product being removable from the peg hooks in the unlocked mode and being non-removable on the peg hooks by the product retaining bar in the locked mode, as in claim 11.

Huehner also discloses the product retaining structure being hingedly connected (figures 25 and 30) to the peg hook support frame, as in claim 12, as well as the product retaining structure having a forward upper security bar (60) and a lower security rod (62), as in claim 13, wherein the upper security bar is above the forward end of the peg hooks and the lower security rod is below the forward end of the peg hooks when the lock bar security system is in the locked mode (figure 25), as in claim 14, and where the upper security bar and the lower security rod are rotated above the forward end of the peg hooks when the lock bar security system is in the open mode (figure 30), as in claim 15.

Huehner further discloses a method for securing product in a merchandising display by installing a plurality of peg hooks on a peg hook support bar, the peg hook support bar supported by mounting brackets connected to the merchandising display (column 3, lines 53-60), placing the product on one or more of the peg hooks (column 3, lines 61-67), and securing a product retaining structure supported by the mounting brackets, the product retaining structure proximate

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a forward end of the peg hooks, the product retaining structure including an upper security bar and a lower security rod, the upper security bar and the lower security rod are in vertical space relation and normal to the forward end of the peg hooks when in a closed mode (column 4, lines 1-11), as in claim 16, and when product is to be removed, unlocking a lock mechanism coupled to the product retaining structure, and lifting the product retaining structure upwardly such that the upper security bar and the lower security rod are suspended above the peg hooks to allow the product to be removed (column 4, line 30-45), as in claim 17.

Huehner additionally discloses the step of installing the plurality of peg hooks includes placing each peg hook back onto the peg hook support bar via an entrance cavity between the peg hook support bar and a peg hook security rod in vertical space relation to the peg hook support bar, the entrance cavity permitting installation of one or more peg hook backs coupled to peg hooks only when the product retaining structure is in an open mode (column 3, lines 53-60), as in claim 18.

Huehner also discloses the peg hook support bar and the peg hook security rod are portions of a frame supported by the mounting brackets, the product retaining structure hingedly connected to the frame (figures 25 and 30), as in claim 19, and wherein the securing includes having the product retaining structure in the closed mode and locking a lock mechanism coupled to the product retaining structure, the locking mechanism securing the product retaining structure to the frame in the closed mode (figure 1), as in claim 20, as well as the product retaining structure includes a bar (66) configured to enable label holders to be inserted thereon, as in claim 21.

Huehner further discloses the combination of a merchandising display for displaying product on a plurality of peg hooks (figure 14) and a lock bar system including support means (220) for supporting the peg hooks and securing means (200) for securing the product, the securing means being attached to the support means for supporting the peg hooks (figure 23), the securing means extending forwardly from the support means and enclosing a forward end of the peg hooks when the securing means is in a closed mode (figure 14), as in claim 22, wherein the support means includes first and second vertically spaced and generally horizontally extending rear members (224 and 226), the first rear member configured to support peg hooks placed on the first rear member via an entrance cavity (238) formed between the first and second rear members, the second rear member comprising a rod (230) for preventing removal of the peg hooks when the lock bar system is in the closed mode, as in claim 23, and where the support means and the securing means are coupled to the merchandising display via mounting brackets (52) including apertures for receiving the support means and the securing means in cantilevered support (figure 16), as in claim 24, as well as the securing means has first and second vertically spaced and generally horizontally extending front members (60 and 62) in horizontal relation to the first and second rear members when in the closed mode (figure 14), as in claim 25.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to locking display racks:

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U.S. Patent Number 6,659,291 to Huehner et al., U.S. Patent Number 6,491,169 to Salonen, U.S. Patent Number 5,823,358 to Leyden et al., U.S. Patent Number 5,676,258 to Leyden et al., U.S. Patent Number 5,407,170 to Slivon et al., U.S. Patent Number 4,882,868 to Fast, U.S. Patent Number 4,462,497 to Maule, U.S. Patent Number 4,289,242 to Kenyon, U.S. Patent Number 4,155,458 to Moline, U.S. Patent Number 1,856,239 to Buckley.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (703) 305-4067. The examiner can normally be reached on 8:30 - 5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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CJB CB
December 2, 2004